

# Zoning Board of Appeals – Town of Spencer

## *Minutes*



Regular Zoning Board Meeting  
Tuesday, April 13, 2010 at 7:15 PM  
McCourt Social Hall  
Memorial Town Hall

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The meeting was called to order at 7:15 p.m.

Zoning Board Members Present: Chairman Allen Collette, Clerk Pamela Crawford, Joanne Backus, and Albert Drexler, alternate.

Zoning Board Member Absent: Delores Kresco.

Staff present: Bea Meechan, Senior Clerk ODIS.

### **New Business:**

**A. Special Permit – Mr. Brian Gosselin, 3 Robin Road, Spencer** (Assessor's Map R03/11, Parcel 12). Mr. Collette opened the hearing at 7:20 p.m. The Clerk read the brief. The applicant is requesting a special permit in accordance with Section 4.8.1 of the Spencer Zoning Bylaws to construct an accessory apartment to an existing single-family dwelling, above the existing 2-car garage. The property is located in the Rural Residential Zoning District.

*Note:* Mr. Jason Dubois of Bertin Engineering and Mr. Gosselin were present this evening.

Mr. Collette asked the applicant or the representative for a presentation of the proposed plan.

Mr. Jason Dubois explained the plan proposes to construct a 688-square foot accessory apartment above the existing garage with its own separate entrance. The property has enough parking to accommodate the addition. The building has total of 2,300 square feet, and the property contains about 1.6 acres of land.

The plan was previously reviewed by Mr. William Scanlan, Spencer Planning Consultant and Mr. William Klansek, Spencer Building Inspector & Zoning Enforcement Officer. The question was raised on the capacity of the septic system. They both determined that the septic has enough capacity to handle the additional bedroom. The dimensions of the addition as shown on the proposed plan is 28' by 26' that is 728 square feet which exceeds the maximum 700 square feet allowed. (See memo from Mr. Scanlan dated 4/13/2010).

Mr. Collette asked the applicant for explanation on the above matters.

Mr. Gosselin said he has filed the building permit application with Mr. Lee Jarvis, the Spencer Health Agent, who signed off on the capacity of sewage disposal system, and also with Ms. Ginny Scarlet, Spencer Wetland Soil Specialist, who signed off on the wetlands. Mr. Gosselin stated that the 28' by 26' dimension includes the addition and the attached stairwell. The actual footage of the addition is 688 square feet less the stairwell. He then pointed out both areas on the revised plan to the Board.

Ms. Crawford asked if the addition will only be occupied by a family member.

Mr. Gosselin said that the additional apartment is only occupied by his family member.

Mr. Drexler commented that the Board cannot include "the accessory apartment can only be occupied by a family member" as a provision in the decision because it is not required in the Zoning Bylaw.

At this time the Board reviewed the revised plan. Mr. Collette instructed an ODIS clerk to make a copy of the building application which has the Health Agent signed-off on the sewer disposal system and to keep it in the ODIS file.

Mr. Collette opened the hearing to the public for any comments or questions.

*Note:* There were no abutters present for this hearing.

Ms. Backus made a motion to close the hearing at 7:40 p.m. Ms. Crawford seconded the motion and the vote was 4-0 in favor.

Mr. Collette announced members sitting in the voting were Ms. Backus, Ms. Crawford, and himself.

Ms. Backus made a motion to grant a special permit to Mr. Brian Gosselin to construct an accessory apartment above the existing 2-car garage on 3 Robin Road. The proposed apartment has 688 square feet which does not exceed the 700-square foot maximum. Ms. Crawford seconded the motion and the **vote was 3-0 in favor**. The following was included in the motion:

- Findings:*** The Board determined that the findings had met the requirement in M.G.L., Chapter 40A., Section 9 and Section 7.2 of the Spencer Zoning Bylaws:
1. That the proposed use (accessory apartment) is in harmony with the general purpose and intent of the zoning bylaw.
  2. That the proposed use will not create undue traffic congestion nor unduly impair pedestrian safety.
  3. That the proposed use will not impair the integrity or character of the district or adjoining zones, nor will it be detrimental to the health, safety, or welfare of the neighborhood or the Town.

This approval is granted with the following ***conditions:***

1. The plan that was submitted for the design is herein incorporated as part of this decision. Any change requires re-submittal to the Board.
2. Construction activities shall not commence until all required approvals and permits are obtained.

Mr. Collette explained that once the decision has been filed with the Town Clerk, staff from ODIS will mail a copy of the decision along with the instructions to the applicant, and to all abutters.

**B. Special Permit – Alan Letendre, Country Spirits Realty, LLC, 10 West Main Street, Spencer** (Assessor's Map U11/4). Mr. Collette opened the hearing at 7:45 p.m. The Clerk read the brief. The applicant seeks a special permit to allow a second double-faced freestanding sign 7' 2" by 6' 7" to be placed at the second entrance on Old Spencer Road (Olde Main Street). Section 6.5.5.B.4 of the Spencer Zoning Bylaw allows one double-faced freestanding sign per lot for the Commercial District. The Planning Board previously granted an approval on the first double-faced freestanding sign to be installed at the main entrance on Route 9.

Mr. Collette asked the applicant for a presentation of the proposed plan.

Mr. Letendre explained the Site Plan application was approved by the Planning Board on 5/27/2009. The proposed business establishment has two entry ways. He would like to have a sign for each entry. The first one is at the main entrance on Route 9; and the second is at the Old Spencer Road/Olde Main Street entrance. When he applied for a Sign Permit application, the Building Inspector told him that he would need a special permit from the Zoning Board of Appeal for the second sign. The current sign bylaw only allows for one double-faced freestanding sign *per lot* for the Commercial District.

At this point Mr. Letendre presented the Site Plan to the Board and pointed out the two locations of the proposed signs.

The following were questions from the Board:

- Where is the exact location of the second sign on Old Spencer Road/Olde Main Street?
- Is there any requirement or provision from the Mass Highway Department (Route 9 is State owned property)?
- What is the dimension of the sign and also its setback? (The Board was concerned the sign might obstruct motorists' view).

Mr. Letendre responded that at the present time there is construction for installation of the new drainage across the Old Spencer Road; thus the exact location has yet to be determined. The dimensional and the setback of the signs are within the requirements. The curb cut access permit, for the egress on Route 9, was approved by the Mass Highway Access Department without any objection. As for the second egress Mr. Letendre said it will be primarily utilized by

delivery trucks and trash pick-up trucks. It is also convenient for local residents to use this entrance as well. Therefore, the additional sign is reasonable and needed on Old Spencer Road.

At this time Mr. Collette opened the hearing to the public for any comments or questions.

*Note:* there were no abutters present for this hearing.

Mr. Drexler made a motion to close the hearing at 7:55 p.m. Ms. Crawford seconded the motion and the vote was 4-0 in favor. Mr. Collette announced the members sitting in the voting were Ms. Crawford, Mr. Drexler, and himself.

Mr. Crawford made a motion to grant a special permit to Alan Letendre, Country Spirits Realty, LLC to install the second double-faced freestanding sign at the Old Spencer Road (Olde Main Street entrance). The sign shall comply with the front setback, size and dimensions as required by the sign bylaw. Mr. Drexler seconded the motion and the **vote was 3-0 in favor**. The following were included in the motion:

***Findings:*** The Board determined that the findings had met the requirement in M.G.L, Chapter 40A., Section 9 and Section 7.2 of the Spencer Zoning Bylaws:

1. That the proposed use is in harmony with the general purpose and intent of the zoning bylaw.
2. That the proposed use will not create undue traffic congestion nor unduly impair pedestrian safety.
3. That the proposed use will not impair the integrity or character of the district or adjoining zones, nor will it be detrimental to the health, safety, or welfare of the neighborhood or the Town.

This approval is granted with the following ***condition:***

1. Construction activities shall not commence until all required approvals and permits are obtained.

Mr. Collette explained that once the decision has been filed with the Town Clerk, staff from ODIS will mail a copy of the decision along with the instructions to the applicant, and to all abutters.

### **Approval of Minutes: For March 23, 2010**

Mr. Drexler made a motion to accept the minutes for March 23, 2010. Ms. Crawford seconded the motion and the vote was 3-0 in favor with Ms. Backus abstaining.

**Old Business: None**

**Other Business: None**

Ms. Backus made a motion to adjourn the meeting at 8:00 p.m. Mr. Drexler seconded the motion and the vote was 4-0 in favor.

Submitted By:

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Bea Meechan, Senior Clerk, ODIS